

## The Herald and News

R. H. WELCH, EDITOR

## BISHOP A. COKE SMITH.

The Rev. Dr. A. Coke Smith who has recently been made a bishop by the General Conference of the Methodist Church in session in Dallas, Texas, is a South Carolinian, and we claim him as a Newberrian, he having married his wife in this city. The greater part of his ministry was spent in this State and his friends in South Carolina are legion. In honoring him the church is honoring himself. He is a preacher of great power and force and an humble Christian gentleman.

Tomorrow will be Sarah Calhoun Simonds, Day at the Charleston Exposition, so named in honor of the president of the woman's board of the Exposition. Mrs. Simonds, besides being a stockholder in the company, has given her time and best thoughts to the success of the undertaking, and especially the woman's department, and has contributed in no small degree towards that success. The editors who attended the meeting of the State Press Association in Charleston especially have pleasant recollections of Mrs. Simonds, and her efforts to make their stay while there a pleasant one. There should be a large attendance at the grounds tomorrow, especially the ladies of Charleston and of the State.

The statue of Count de Rochambeau was unveiled in Washington yesterday with imposing ceremonies, the French government, through its representatives and a special detachment of soldiers, taking part. President Roosevelt welcomed the representatives of France and Senator Lodge, of Massachusetts, delivered the oration of the day.

Rochambeau was the leader of the French troops who played such a gallant and important part in the struggle for American independence from 1780 to 1782 and he himself was largely instrumental in bringing to a successful conclusion the campaign which culminated with the disastrous defeat of British arms on the field of Yorktown.

In honoring Rochambeau both the French and American republics honor themselves.

Lord Pauncefoot, British ambassador to the United States, died in Washington on Saturday. For some time he had been in failing health, but the end came more suddenly than was expected. His death will be felt in diplomatic circles, where he had played an important part for a good many years, having been the first ambassador to this country from Great Britain, he being minister when the rank of ambassador to the United States was created, and having held the office continuously since, although for some years he has passed the age limit. It is probable that his remains will be carried home on a United States battleship.

## J. M. DAVIS, G. M.

## Kind Words About Newberry Odd Fellows.

The following items complimentary to Grand Master J. Marion Davis, and Cole L. Blease, Esq., of this city, are taken from The Carolina Odd Fellow, of the 20th inst., a journal devoted to the interest of Odd Fellowship, and speaks in the highest terms of both of these gentlemen:

Bro. J. M. Davis, our present Grand Master, deserves great credit for his wonderful energy and push, which has placed him at our head.

Bro. Davis is truly a self made man, who was the son of a widow lady. He started a few years ago to sweeping in a cotton mill, while a small boy. "Look now." He has kept on coming up until now he is the superintendent of one of the largest cotton mills in the South. His employers have given him the highest rank of their business. See what energy will do.

Bro. Davis is a young man of about thirty summers, and has been in our order only a few years, and has won the highest rank in our order, and to know him is to love him, as he carries that nice grace of manner that proves him to be a true gentleman.

Our order promises to grow most wonderfully in our State this year, and let us do everything in our power to assist our Grand master to keep our order climbing up, not only in quantity but in quality and financially.

So let us go to work as we never have before and see what our effort will do. We will never know until we try. Let us try for the sake of duty if nothing else.

The speech of Hon. Cole L. Blease, of Newberry was simply grand. The large auditorium at the exposition grounds was well filled. The speaker was at his best. The brilliancy of his oratory was sublime, everybody was charmed. Some of his flights of eloquence was rapturous, while with the most beautiful word painting he dwelt on the benevolent feature of our Order. We noticed many of our good sisters of the Order of Rebekah who could not refrain from shedding the sympathetic tear. The speech as a whole was masterly and will not soon be forgotten. If you failed to hear it you simply missed one of the richest treats of your life.

Brother Blease is a most enthusiastic Odd Fellow and a brilliant member of the Newberry bar.

## THE RISER MILLINERY COMPANY

beg leave to call your attention to their beautiful and new Fans and Ribbons just received.

## REMANDED TO STATE COURTS.

The Case of Luther A. Kier vs. Southern Railway Co., Ordered by Judge Simon-ton Out of United States Court. The Decree.

A decree has been issued by Judge Simon-ton remanding the case of Luther A. Kier vs. Southern Railway Company, which had been taken to the United States Court by the defendant, to the State courts. The motion was made by Mr. Welch, of the firm of Johnstone & Welch, representing the plaintiff, and argued by him before Judge Simon-ton. The decree is of general interest, in that it possibly obviates the demand which has been made to have an Act passed by our Legislature to domesticate corporations of the charter of the Southern Railway, in order to prevent actions against them being taken to the United States Courts.

Riser's suit was for damages as a result of injuries received in a tail end collision at Camp Fornace on the 27th of last September. He entered suit against the Southern Railway and the conductor in charge of the train upon which he was mail clerk in the sum of \$15,000. The defendant, the railway company, removed the case to the United States Supreme Court on the ground of diversity of citizenship between itself and the plaintiff, the railroad being a corporation of Virginia and Riser a citizen of South Carolina. A motion was made in the United States Circuit Court, to which the case was removed, by Mr. Welch, of the firm of Johnstone & Welch, to have the case remanded on the ground that the cause of action against the two defendants was joint and not separable. The defendant resisted the motion on the ground that the cause of action against itself and Rich, the conductor, was separable and not joint. Judge Simon-ton, after hearing the argument pro and con, has ordered the case remanded to the State court, holding that the case showed a joint cause of action, and as the action was joint, the railroad company was not entitled to a removal, because Rich being a citizen of South Carolina, was entitled to have his case tried in the State courts.

The following is

## JUDGE SIMONTON'S DECREE.

This case comes up on a motion to remand the cause which had been removed from the State Court by the Southern Railway Company, on the ground that under the pleadings, a separable controversy exists against it. In discussing this question we have no concern with the merits of the case, nor can we be controlled by an opinion as to the necessary result if the case goes to a trial. It is a question of pleading. Chesapeake & Ohio Ry. Co. vs. Dixon, 179 U. S. 135.

Does the complaint set up a joint or several cause of action? "The cause of action is the subject-matter of the controversy and that is for all the purposes of the suit whatever the plaintiff declares it to be in the pleadings. (Powers vs. C. & O. Ry. 189 U. S. 97). It may be that the plaintiff on the trial may be unable to establish the joint cause of action. It may be that his proof may show that one of the defendants is not guilty of the tort alleged and the other solely guilty. Perhaps a demurrer to the complaint on this ground may be sustained. "If the complaint should be so construed the question would still remain whether the cause of action was not entire as the case stood and the objection of the difference in the character of the liability matter of defense which might force an election or defeat the action as to one of the parties." Chesapeake & Ohio Ry. Co. vs. Dixon, 179 U. S. p. 138. In an action of tort the cause of action is whatever the plaintiff declares it to be in his pleading. Matters of defence cannot be availed of as ground for removal.

The complaint is against the Southern Railway Company and Marion Rich, one of its conductors. The plaintiff, a mail clerk on the train of the Southern Railway Company, managed by Rich the conductor, was injured in a collision and he brings this action against both of the defendants, charging that he was injured in the collision which was due to "joint and concurrent fault of the co-defendants." He sets out in his complaint that the immediate cause of the collision was the failure of Rich, the conductor, to observe certain rules and regulations of the company, and that this failure was due to the "joint and concurrent negligence, carelessness and fault of the said defendants." In all the paragraphs of his complaint he charges this joint and concurrent negligence, &c., as the cause of action. On this he must stand or fall. He may fail in his proof. His claim may not be sustained. But the cause of action relied on is joint. And the controversy set up is joint, not separable.

There is another point of view. The complaint sets out the facts of the case, the injury of the plaintiff by reason of the non-observance on the part of the conductor, the agent and representative of the railway company, of the rules established for his guidance, and charges that this negligence was the joint and concurrent negligence of the railway company and the conductor. Would it not be competent for the plaintiff to show that the conductor was a careless and unobservant person within the knowledge of the company, and on such showing claim that the injury was the joint and concurrent action of the two defendants?

Again, the complaint sets out that the plaintiff was injured by reason of the negligence of the railway company and of the conductor. Suppose that on the trial he proves that the conductor was negligent. The conductor is the

representative of the corporation. His negligence is its negligence. If he is liable the corporation by reason of his liability is also liable. It would be vain for the railway company to prove the utmost care on its part in giving proper instructions to the conductor. If he be negligent, the corporation, notwithstanding its instructions, is guilty, because he was negligent.

"I am answerable for the wrongs of my servant or agent, not because he is authorized by me or personally represents me, but because he is about my affairs and I am bound to see that my affairs are conducted with due regard to the safety of others. (Pollock vs. Torts, Am. Ed. 89-90). So when the servant of a railway company is guilty of negligence in the course of his employment, his negligence is the negligence of the railway company. It may be one act but the liability is the liability of both, the one cannot be separated from the other. The act of the conductor in contemplation of law is so far the act of the Master, that he is answerable for it. (Farrell vs. Boston & Worcester, R. R. Co., 4 Metcalf, 49)."

Put it in another way. The gravamen of the complaint is injury to the plaintiff, caused by negligence in disobeying the rules of the company. If this be proved then the Conductor Rich certainly is responsible, and if he be responsible because of his negligence, as certainly the Railway Company, his principal, is also responsible. To defend itself the Railway Company must participate in the controversy of the conductor, and must maintain the same defence as he does that the collision was not caused by his negligence. However careful the railway company may have been in the issuance of its orders to prevent the collision, if that collision occurred by reason of the negligence of the conductor in obeying the orders, the railway company is liable. It cannot separate its case from that of the conductor. See Bagley vs. Manchester, etc., Ry. S. Moak, 312.

This case cannot be distinguished from Dixon vs. Chesapeake and Ohio Ry. Co., 179 U. S. 131, and is controlled by it.

Let an order to remand be had. Charles H. Simon-ton, Circuit Judge.

May 23, 1902. I, J. E. Hagood, clerk of said court, do hereby certify, that the foregoing opinion is a true and correct copy of the original, now on file and of record in my office.

Given under my hand and seal of said court, at Charleston, S. C. this 23rd day of May, 1902.

J. E. Hagood, C. C. U. S. Dist. S. C.

## Music Recital

The pupils of Miss Harriette McIver Leavell will give a recital at the studio, Friday evening, May 30, at 8:30 o'clock. Miss Leavell is an excellent music teacher and her pupils are very proficient, hence the programme will be interesting and entertaining.

## PYTHIAN PARAGRAPHS

The meeting tonight will in all probability be most interesting.

The report of delegates to the Grand Lodge will be very instructive and every member should be present to hear it.

Brother Mower has been elected Grand Chancellor, an honor every member of Newberry Lodge No. 75, highly appreciate.

Delegates to Grand Lodge report having had a very pleasant session. Knight D. A. Childs, of Columbia, was in the city yesterday.

Knight A. L. Longshore continues quite sick.

## Reveals a Great Secret.

It is often asked how such startling cures, that puzzle the best physicians, are effected by Dr. King's New Discovery for Consumption. Here's the secret. It cuts out the phlegm and germ-infected mucus, and lets the life-giving oxygen enrich and vitalize the blood. It heals the inflamed, cough-worn throat and lungs. Hard colds and stubborn coughs soon yield to Dr. King's New Discovery, the most infallible remedy for all Throat and Lung diseases. Guaranteed bottles 50c. and \$1.00. Trial bottles free at all druggists.

## NOTICE.

THERE WILL BE AN ELECTION for Principal and Assistant Teachers of the Chappell School District No. 39 on Tuesday, 10th day of June, 1902, at 5 o'clock p. m. at the school house. Patrons and those that expect to be patrons are requested to attend promptly. Applications will be received by the undersigned up to that time.

J. W. Chairman,  
J. R. Scurry,  
J. R. Irwin, Trustees.

## Winthrop College Scholarship and Entrance Examinations.

THE EXAMINATIONS FOR THE award of vacant scholarships in Winthrop College and for the admission of new students will be held at the County Court House on Friday, July 11th, at 9 a. m.

Applicants must not be less than fifteen years of age. When scholarships are vacated after July 11th, they will be awarded to those making the highest average at this examination. The next session will open September 17, 1902.

For further information and a catalogue address President D. B. Johnson, Rock Hill, S. C.

## To Bridge Contractors

BIDS FOR CONSTRUCTION OF A Steel Bridge over Saluda River will be received at proposed bridge site near Prosperity on 9th of June, 1902. Plans and specifications to be decided on day of letting. Right reserved to reject any and all bids.

JNO. M. SCHUMPERT, Supervisor.

## NEW FIRE HEADQUARTERS.

A Two Story Brick Building to be Erected on Nance Street—Horse Bought—Hose Wagon to Arrive in a Few Weeks

Congratulations are in order to the City Council.

Ward One gets the handsome new building to be erected for the Excelsior Fire Company's headquarters.

At the meeting of the City Council last week it was decided to erect a two-story brick building at the lower end of the city Market, on Nance street, for the headquarters of the Excelsior Fire Company.

The building is to be erected exclusively for this purpose. The ground floor to be arranged suitably for the hose wagon, horse and stall and the upstairs rooms for the driver and an amusement hall for the firemen. The Council is now getting bids for the erection for the building, and we are informed that the work will begin just as soon as a bid can be decided on.

The committee has also purchased the handsome black horse from Mr. C. C. Davis, which will be the firemen's horse to use to the hose wagon, and we think in this a good selection has been made.

The wagon will be shipped in a week or two, and it is only a matter of a short time until the city will have the best fire protection it has ever had—that is all parts of the city—and for this congratulation to the city Council should be general.

We say, well done so far, gentlemen. Let the good work go.

## SPECIAL NOTICES.

## ICE CREAM PARLOR

NOW OPEN AT THE Granite Front Bakery.

You can get Ice Cream and Cake. Orders taken from the house at the same price.

## HENRY A. MEYER &amp; SON.

If it is a pair of Shoes, Oxfords or Sandals you want, you can save lots of money, now, by getting them from Copeland Bros. At Cost.

MONEY TO LOAN—We negotiate loans on improved farm lands at eight per cent. interest on long time. Hunt, Hunt & Hunter, Attorneys.

COPELAND BROS. are selling all of their big stock of Shoes, Oxfords and slippers at Actual Cost.

WANTED, at the Newberry Hotel Spring Chickens and eggs for sale. W. A. Jamieson, Proprietor.

ALL Fancy White Goods and Colored Laces, are being Sold At Cost. At Copeland Bros.

SPECTACLES AND EYEGLASSES Do your eyes ache and burn at night? I have the best trial case for fitting Spectacles and Eyeglasses, and can fit the most difficult eyes, with the proper glasses. I have fitted glasses for the best people in the county and can fit you. I use only the best grade Crystalline lenses. Come and give me a trial and be convinced. Strictly one price to all. GUY DANIELS, Jeweler and Optician.

COPELAND BROS. can save you money on your Clothing, Dress Goods, Shirts, Hats and Shoes. Don't buy until you see their big Stock and get their prices.

SMITH BROS' Roller Mill at Kinards will grind for the teeth. The output of this mill has a wide reputation for its excellent quality. Customers are treated right and perfect satisfaction is guaranteed.

FOR Pretty Slippers Cheap Go to Copeland Bros.

RUBBER STAMPS—Name stamp 15c. per line. Pads 10c. Dates, merchants marking outfits. J. P. Cook, Newberry, S. C. Rubber Stamp Manufacturer.

COPELAND BROS. will not be undersold on anything in their line.

FEAST your eyes, and fatten purse, by inspecting Wooten's line of wash goods.

GET prices Anywhere and Everywhere, and Go to Copeland Bros. and get the same goods for less money.

## NOMINATIONS.

## For Congress.

WYATT A. KEN, OF ABBEVILLE, is hereby announced as a candidate for Congress from the Third Congressional District, and is pledged to abide the result of the Democratic primary election.

D. R. F. SMITH OF PICKENS, is hereby announced as a candidate for Congress from the Third Congressional District, and is pledged to abide the result of the Democratic primary election.

GEO. E. PRINCE, ESQ., OF ANDERSON, is hereby announced as a candidate for Congress from the Third Congressional District, and is pledged to abide the result of the Democratic primary election.

I. H. McCALLA, OF ABBEVILLE, is hereby announced as a candidate for Congress from the Third Congressional District, and is pledged to abide the result of the Democratic primary election.

W. M. J. STRIBBLING OF WALHALLA, Oconee County, is hereby announced as a candidate for Congress from the Third Congressional District in the Democratic Primary and is pledged to abide the result of the same.

For County Supervisor. M. J. Y. FLOYD IS HEREBY ANNOUNCED as a candidate for County Supervisor and is pledged to abide the result of the Democratic primary election.

## For Magistrate, No. 11.

COLIN L. GRAHAM is hereby announced as a candidate for Magistrate for No. 11 Township and is pledged to abide the results of the Democratic primary election.

## AT COST-AT COST

Ten Thousand Dollars Worth of Men's Women's and Children's Shoes and Slippers thrown on the Market at Actual First Cost.

This big stock of Shoes must be reduced. Our stock of Shoes is, by five thousand dollars, heavier than it should be, and I have decided that the surest and speediest way to reduce it is to cut the price, and any price lower than our usual uniform prices means a saving of many dollars to the trading public. These goods you need and want right now, and we need the money that is locked up in them. No use for us to dwell upon the merits of the kind of Shoes we carry. It's an established fact that we carry the RELIABLE KINDS. Don't let this opportunity slip; it will pay you to come fifty miles to this

## Big Cash Cost Sale.

Every pair of Ladies' Shoes, heel or spring heel, button or lace, worth \$1.25, for this cost sale only \$1.00.

Every pair of Ladies' Shoes worth \$1.50, for this cost sale only \$1.25.

Our entire line of Ladies' Fine Shoes worth \$1.75, \$2.00, \$2.25, now \$1.50.

Every pair of Ladies' Fine Shoes worth \$2.50 and \$3.00, your pick of the lot at \$2.49.

Every pair of Ladies' and Children's Slippers in the house at actual first cost.

300 pairs of Men's Shoes, Congress or Lace, for this sale	85c.
500 " " " " " "	\$1.25
500 " " " " " "	1.49
350 " " " " " "	1.98
300 " " " " " "	2.49

If you want to buy Shoes now is your chance (Note.) No Shoes sent out on approval. Every item spot cash.

## Remember, Thursday and Friday

are Bargain days. All odds and ends in short lengths placed on centre tables at half price. If you have not visited my store on Bargain Days ask your friends and neighbors about it. Just follow the crowds and you will see where they stop.

## MIMNAUGH'S,

The Cheapest Store in the Carolinas.

When a young husband becomes a father he feels as happy as he looks scared.

You never heard of any one using Foley's Honey and Tar and not being satisfied. Glider & Weeks.

Sometimes a man's sins find him out—but he is more apt to be found out by his wife.

Foley's Honey and Tar contains no opiates and can safely be given to children. Glider & Weeks.

A politician, in the opinion of many a disgusted constituent, may be defined as a man who won't do anything for you.

A Revelation. If you will make enquiry it will be a revelation to you how many succumb to kidney or bladder troubles in one form or another. If the patient is not beyond medical aid, Foley's Kidney Cure will cure. It never disappoints. Glider & Weeks.

The uses of adversity are never so sweet as when we are able to draw moral deductions from the misfortunes of someone else.

Will Cure Consumption. A. A. Herren, Finch, Ark., writes, "Foley's Honey and Tar is the best preparation for coughs, colds and lung trouble. I know that it has cured consumption in its first stages." Glider & Weeks.

A Kansas girl who recently lost her marriage has received twenty-seven offers of marriage.

A Lesson in Health. Health Kidneys filter the impurities from the blood, and unless they do this good health is impossible. Foley's Kidney Cure makes all kidneys and will positively cure all forms of kidney and bladder disease. It strengthens the whole system. Glider & Weeks.

Most of us know only one man whom we regard as absolutely fair and unbiased, and modestly prevents us from naming him.

What Is Foley's Kidney Cure? Answer: It is made from a prescription of a leading Chicago physician, and one of the most eminent in the country. The ingredients are the purest that money can buy, and are scientifically combined to their utmost value. Glider & Weeks.

Looking at feminine attire the wonder is not so much that a woman has no pocket as that her husband has any pocket; it being the law of evolution that desuetude makes for extinction.

Traveling Is Dangerous. Constant motion jars the kidneys which are kept in place in the body by delicate attachments. This is the reason that travelers, trappers, street car men, teamsters and all who drive very much suffer from kidney disease in some form. Foley's Kidney Cure strengthens the kidneys and cures all forms of kidney and bladder disease. Geo. H. Hausan, locomotive engineer, Lima, O., writes, "Constant vibration of the engine caused me a great deal of trouble with my kidneys, and I got no relief until I used Foley's Kidney Cure." Glider & Weeks.

The Ladies' Exchange Mrs. R. C. Williams respectfully informs the ladies of Newberry and vicinity that she has opened an Exchange for the purchase or exchange of ladies', children's and men's second hand clothing, and solicits their patronage.

Persons on business will please call at the Exchange, Croftwell Hotel, first floor, between 9 a. m. and 4 p. m.

LADIES' full size fast black drop-stitch hose 8c. a pair, at Wooten's.

THE UNITED STATES OF AMERICA—DISTRICT COURT—SOUTH CAROLINA.

In re L. W. C. Blalock—Bankrupt. NOTICE IS HEREBY GIVEN that L. W. C. Blalock was duly adjudicated a Bankrupt on the 14th day of May, 1902, by the Bankrupt Court for the above named District, and that the Bankrupt has been duly ordered to appear personally before me at my office, in the town of Newberry, S. C., at 10 o'clock a. m. of the 29th day of May, 1902, for the purpose of examination, etc.; and that at the same time and place the creditors have been called to meet for the purpose of electing a trustee and attending to such other business as may come before the said meeting. All persons holding claims against said Bankrupt are notified to render them duly proved before me at said meeting.

R. H. WELCH, Referee in Bankruptcy. May 19, 1902.

How It Is Done. The first object in life with the American people is to "get rich;" the second, how to retain good health. The first can be obtained by energy, honesty and saving; the second, (good health) by using Green's August Flower. Should you be a despondent sufferer from any of the effects of Dyspepsia, Liver Complaint, Appendicitis, Indigestion, etc., such as Sick Headache, Palpitation of the Heart, Sour Stomach, Habitual Constipation, Dizziness of the Head, Nervous Prostration, Low Spirits, etc., you need not suffer another day. Two doses of the well-known August Flower will relieve you at once. Go to Wm. E. Pelham & Son and get a sample bottle free. Regular size, 75 cts. Get Green's Special Almanac.

KEEP "KOOL" OF COURSE—WHY NOT—WHEN P. F. Baxter sells Ice Tickets of 100 pounds for 45 cents at Ice House. You will find him there 7 days in a week, from 6 a. m. until 8 p. m., ready to serve you with "Kool" Ice the year around. Sp. cial price for large quantities 30 pounds and over delivered free.

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